58. The Travancore Municipal Regulation and suggestions for its better working.

MR. JOSHUA R. DANIEL (*Municipal Council, Nagercoil*) said that the Municipal Regulation was defective in several respects and the bye-laws passed by the various councils were neither uniform nor exhaustive. The chief defect was the predominance of the official element in municipal administration. Under the Regulation, the Government had the power to nominate a number of councillors and in some cases of even nominating the Presidents. The President had powers independent of the Council. The President or Vice-President could be removed at the instance of the Government, that is to say, they held office only during the pleasure of the Government. Disputes relating to elections of Presidents had to be decided by the Government under the Rules framed by the Government for the purpose, although the High Court had held that the action of the Government in passing the Rules was *ultra vires*.

Besides the general observations made above, the member also pointed out certain other defects in the working of the Regulation and suggested measures for their removal. Firstly, there was no provision in the Regulation defining the qualifications of an elector. The provision in Section 17 (2) and (3) regarding the residue of the term of office was unhappy and should be deleted. Women should be declared eligible to stand for election to Councils and the qualifications to vote should also be defined.

The wording of Section 26 (5) relating to the adjournment of meetings was unhappy and in conflict with Section 25 (3). It would be desirable to make provision for forfeiture of membership for continuous absence.

The final electoral roll was published after approval by the Revising Authority, a body of 3 persons including the President. There was no provision for appeal. A civil suit against the President would be infructuous because, before a suit was filed, 2 months' notice was required. In the meantime, the election would have been held, for, under the Rules, the election had to be held within 25 days from the date of publication of the final rolls. Further, the President who prepared the list was also one of the judges to approve it. That was not desirable. It was therefore necessary to create a separate body to decide disputes relating to the electoral roll.

A new provision should be added relating to the protection of Municipal funds, on the lines of corresponding provision in the Madras Act, IV of 1919.

Section 65 (2) relating to the penalty for failure to furnish information regarding liability to taxation was not clear as regards the basis of liability. The High Court had held that the demand for information in Section 83 (1) was the foundation for liability; while it had subsequently been held that no prosecution may

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The law should be made clear. The Regulation did not provide for the right of suit as to the validity of any tax. The provisions of Sections 95 and 96 for a special tribunal were not exhaustive. It could not be said that that tribunal had exclusive jurisdiction to try questions referred to it, though there was an implied prohibition against filing a suit in ordinary courts. The provisions should be made clear.

In regard to taxation of buildings, the provision in Section 3 (17) relating to the recovery of tax from the occupants was anomalous. The term occupant had not been defined. There was no provision for recovery of tax from the representatives of a deceased person after the imposition of the tax. The allowance of one-sixth of the annual value for repairs to buildings was small and should be enhanced. The letting value of a building should be taken from month to month instead of year to year. The Revision of rates once in 5 years under Section 72 (1) was a real hardship to the poor people.

Under Section 63, the Government had the right to levy any tax irrespective of the wishes of the Council. The power should not be exercised and in every case the Council should be consulted.

Section 68 gave the Council a sort of summary power as regards recovery of tax and any defect or irregularity could not invalidate any impost. The statutory requirements should be strictly complied with before any tax could be said to have been legally imposed.

The terms arts, professions, trades, callings, carrying on business, etc., should be properly defined. A tax once imposed could not be revised during the term, whatever might have been the cause of enhancement. This defect should be removed.

In regard to the taxing of vehicles, the term "plying for hire" was not defined. The Council could not take any penal action for failure to furnish information but may proceed under Section 98. That was inadequate and more effective provisions should be introduced. There was also no exception in favour of vehicles solely used for the conveyance of children.

The right of seizure, distress and sale of movables conferred on the Municipal Council must be strictly construed. The safeguards in the Regulation as regards the right of sales, etc., must be amplified by rules.

The powers conferred by Chapter VI of the Regulation and the procedure to be followed under that chapter were not capable of exact definition or limitation. But instances were not wanting where the power had been used in a capricious, wanton or unreasonabe manner so as to wound the feelings of the people. Valuable buildings or *pandals* were ordered to be removed at short notice. In the interests of public safety, such large powers had been conferred on local authorities. But the proceedings should not be mere executive acts but must be converted into judicial acts to be done with due care and attention after giving the parties notice and hearing them.

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Lastly, slaughter houses should be removed outside municipal limits. The existence of private slaughter houses had very often led to public disturbances because slaughter of cows was considered a sacrilege by a large section of the people.

DEWAN'S REPLY :—Mr. Daniel, I am glad to be able to tell you that the need for the amending of the Municipal Regulation has been felt by the Government themselves. And they have instructed the Law Member to draft an amendment bill. I shall not attempt to follow the details of the discussion of the various provisions of the existing Municipal Regulation or their defects, but I am sure that the discussion contained in your representation will be of great help to the Law Member in drafting the Bill.

59. Reform of the Trivandrum Municipal Council.

MR. S. NATARAJA PILLAI (*Municipal Council, Trivandrum*) said that the provisions of the Municipal Regulation, V of 1095, were too inadequate for the Municipal Councils to carry on the duties entrusted to them. The Regulation should therefore be amended suitably at an early date.

Speaking about the Trivandrum Municipality in particular, the member said that the provisions of Regulation were insufficient in several respects. Many localities were too congested for healthy habitation. Many acts had to be done to minister to the growing needs of the town but there was no sanction therefor in the existing Regulation. There was no provision for the effective control of public hotels and tea-shops; the sale of adulterated and impure foodstuffs could not be prevented; the nuisance of smoking was another evil which could not be controlled. The Council had no large powers over its funds which could be spent only with the sanction of Government. There was no provision for the realisation of dues from foreign cinema and dramatic companies who played without license. Their performances could not be prohibited, although health experts condemned them. The Council had to pay compensation for the lands acquired for its use but was not impleaded in land acquisition cases. The above were only some of the defects which stood in the way of the Council doing acts of public good.

The member next spoke about the need for a non-official President for the Trivandrum Municipal Council. The subject had been urged on the attention of the Government on more occasions than one. The spirit underlying local-self government required an elected president. Only he can influence the citizens to co-operate with him in the common endeavour of doing social good. Official Presidents could not command public support. They had also no enthusiasm for working new schemes of public utility but were content to see that the existing machinery was run. They occupied a position of vantage in that they had the support of the Government always and were not controlled by the Council. The result was the lack of continued policy and vigorous schemes for improved municipal administration. Under the existing circumstances, the assistance of a Council was hardly necessary. An official

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